

Serial No. 10/752,651

-4-

Atty Docket No. 926512-101092

Remarks

Applicant on June 21, 2006 conducted a teleconference with the examiner to prepare the enclosed amendment. Applicant expressed its reason for allowance as more fully set forth herein. A notice of allowance is requested.

The present amendments and remarks after Final are appropriate and should be considered and entered. The amendment to Claim 1 was not earlier made because applicant in the previous amendment understood that the previous amendment positively recited the valve plate. The present amendment is to unambiguously and positively recite the valve plate as part of the limitation in Claim 1. The amendment does not raise new issues as the examiner considered the limitation in entering the new 103 rejection based on a combination of U.S. patent Wise and U.S. patent Miller.

The below arguments, as to the patentability of amended Claim 1, should be considered after Final. The arguments do not raise new issues. The arguments were not earlier made with respect to the obviousness rejection because the combination of Miller and Wise was cited for the first time in the final rejection.

Rejection of Claims 1 and 2 as Being Anticipated by Miller.

Amended Claim 1 discloses and positively recites the valve plate. Miller does not recite a valve plate. Accordingly, Miller does not anticipate Claim 1. As Claim 2 depends upon Claim 1, it is allowable for the same reasons with respect to Claim 1. The rejection of Claims 1 and 2 should be withdrawn.

Obviousness Rejection of Claims 3-8, item 5-11 of Action.

Claims 3-8 depend from Claim 1. These claims are allowable for the same reasons as Claim 1. Accordingly, the obviousness rejection to Claims 3-8 should be withdrawn.

Serial No. 10/752,651

-5-

Atty Docket No. 926512-101092

Obviousness Rejection of Claim 1, Section 103, item 12 of Action

The action rejects Claim 1 as unpatentable over Wise 3,621,868 in view of Miller 6,267,527. Applicant disagrees that the cited references show the invention as now recited in amended Claim 1 is obvious. First, neither of the references discloses a valve plate. Second, even if Wise is considered to disclose a valve plate, one would not utilize the dowel disclosed in Miller in place of the pin 32 disclosed in Wise. Accordingly, the obviousness rejection to Claim 1 should be withdrawn.

Wise discloses valves used in connection with a breathing tube check valve. The breathing tube check valve is part of a mask. Reference 26 of Wise does not identify a valve plate. Reference 26 rather is a base member of a cup that has a cylindrical sidewall 25 encircled by a flange 27. The cup does not form a plate. The cup forms a circular opening 28. The opening 28 only has a valve seat (rim) 29 upon which valve flap 33 sits. The cup cannot be considered a valve plate. Thus, the 103 rejection should be withdrawn.

Even if Wise were considered to disclose a valve plate, there is no suggestion sufficient in Miller to utilize a valve pin insert having the shape of Miller the dowel as a substitute for the pin 32 disclosed in Wise. To be substantiated, the actions assertion about what the references suggest must find support through examination of the reference as a whole rather than utilizing bits and pieces of art apart from their teachings. See Bausch & Lomb, Inc. v. Barnes-Hind Hydro Curve, Inc., 796 F. 2nd 443 (Fed. Cir. 1986), cert. denied, 484 U.S. 823 (1987); Interconnect Planning Corp. v. Feil, 774 F. 2nd 1132 (Fed. Cir. 1985). Any modifications necessary to the prior art to produce the claimed invention must be suggested by the prior art. See in re Gordon, 733 F. 2nd 900 (Fed. Cir. 1994); In re Miskarsky, 871 F. 2nd 1115 (1989). The above principals were recently reiterated in Re Kotzab, 217 F. 3d 1365 (Fed. Cir. 2000). *(The court holding prior art did not teach or suggest the use of a*

Serial No. 10/752,651

-6-

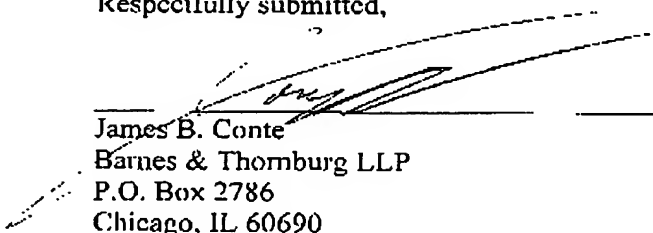
Atty Docket No. 926512-101092

single temperature sensor to control a plurality flow valves. In Kotzab, the prior art showed a one to one correlation of valves and sensors.)

A review of the differences between the problems and solutions addressed by applicant, as compared to the cited references, show the lack of suggestion towards applicant's invention. The problem faced by applicant was to improve upon how the valve pin insert interfaced with the valve plate. Wise has no discussion concerning any problems associated with how Pin 32 interfaces with the cup. Miller also does not suggest how to improve upon interfacing a valve pin insert with a valve plate. Rather, Miller discloses a dowel construction having shanks of differing diameters. The shanks having different diameters serve to allow for joining two members to each other. The upper shank secures to the first member and the lower shank secures to the second member. See FIG. 3. The act of insertion of the dowel actually joins the member. The act of insertion in applicant's invention is not done in connection with joining two members. Thus, there is nothing in Miller to suggest that the shanks could be used or should be used as a way to anchor a valve pin insert into a valve plate. Accordingly, Wise in combination with Miller does not make applicant's invention obvious. The 103 rejection to Claim 1 should be withdrawn. The obviousness rejection to Claims 2 through 8 based on Miller and Wise should also be withdrawn for the same reasons as asserted with respect to Claim 1.

Thursday, June 22, 2006

Respectfully submitted,



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